

B.A.P., a minor child by and through her parent, RICHARD PENKOSKI; and RICHARD PENKOSKI, as the parent and legal guardian of B.A.P.,

V.

Defendants.

Chief Judge Waverly D. Crenshaw, Jr.  
Magistrate Judge Alistair E. Newbern

This motion is made on the grounds that, given the uncertain state of the pleadings and evidence in this case, as well as even who is a proper party, due to the pending Motion to Substitute Proper Party and Dismiss Richard Penkoski (Doc. 89) filed by Plaintiffs, as well as Plaintiffs'

pending discovery Motion for Sanctions Due to Spoliation of Evidence (Doc. 105), Plaintiffs cannot properly respond in opposition to Defendants' pending Motion for Summary Judgment since the Motion for Sanctions requests relief that, if granted, would actually moot Defendants' Motion, and alter the state of the Pleadings and/or evidence in the case.

For the same reasons, Plaintiffs would move this Court to extend the dispositive Motion deadline, currently set for October 6, 2023 (Doc. 87). Therefore, Plaintiffs respectfully request that this Court defer consideration of said Motion for Summary Judgment until the pending Motion to Dismiss/Substitute Proper Party and the pending discovery motion has been adjudicated.

A memorandum of law in support further explaining the facts behind this Motion is filed contemporaneously hereto.

### **CONCLUSION**

For all these reasons, Plaintiffs would ask this Honorable Court to grant this Motion, and stay the time for filing a response to Defendants' Motion for Summary Judgment until such time as the Court can reach adjudication of the pending Motion to Dismiss. Plaintiffs further ask that the dispositive motion deadline be extended until Plaintiffs' two pending motions can be resolved.

Respectfully submitted,

/s/ Kristin Fecteau Mosher

Kristin Fecteau Mosher, Esq.  
Tennessee Bar No.: 19772  
Local Counsel for Plaintiff  
**The Law Office of Kristin Fecteau, PLLC**  
5543 Edmonson Pike, Suite 229  
Nashville, TN 37211  
Telephone: (615) 496-5747  
E-mail: kristin@fecteaulaw.com

/s/ Frederick H. Nelson  
Frederick H. Nelson, Esq.  
Florida Bar No.: 0990523  
Lead Trial Counsel for Plaintiff  
David J. Markese, Esq.  
Florida Bar No.: 0105041  
Co-counsel for Plaintiff  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 26, 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

Ken Williams, Esq.  
Wimberly Lawson Wright Daves & Jones  
P.O. Box 655, Cookeville, TN 38503-0655  
1420 Neal Street, Suite 201  
Cookeville, TN 38501  
[ken@wimberlawson.com](mailto:ken@wimberlawson.com)

Mary DeCamp, Esq.  
Scott Bennett, Esq.  
Bennett & DeCamp, PLLC  
James Building  
735 Broad Street, Suite 214  
Chattanooga, TN 37402  
[dsb@bennettdecamp.com](mailto:dsb@bennettdecamp.com)  
[mcd@bennettdecamp.com](mailto:mcd@bennettdecamp.com)

This 26<sup>th</sup> day of September, 2023.

/s/ Kristin Mosher  
Kristin Mosher